



CHAMBERS OF
MICHAEL P. McCUSKEY
DISTRICT JUDGE

United States District Court
Central District of Illinois
U.S. COURTHOUSE
201 SOUTH VINE STREET
URBANA, ILLINOIS 61802

TELEPHONE 217-373-5837
FACSIMILE 217-373-5855

I. GENERAL RULES FOR THE CONDUCT OF COUNSEL DURING TRIAL

- A. Counsel must not waste jurors' time. Consequently, counsel should:
1. arrive in the courtroom on time for all scheduled court appearances;
 2. raise anticipated legal arguments regarding evidence, witnesses, etc., at the beginning of the day prior to the scheduled arrival of the jury, after the jury has been relieved for a break, or after the jury has been relieved for the day;
 3. request side-bars only when absolutely necessary; and
 4. be well prepared. Dispositive motions should have a memorandum of law attached. All cases cited to the court must include a copy of the case.
- B. Counsel must address themselves only to the Court except during opening statements, closing arguments, and examination of witnesses. Consequently, counsel should address the Court and:
1. not address comments to opposing counsel;
 2. not ask jurors questions (i.e., "Can you see this exhibit?");
 3. not address comments to the court reporter (i.e., "Read that back");
 4. not address comments to the Clerk of the Court; and
 5. not instruct witnesses, but rather request that the Court give the instruction.
- C. Counsel must stand when addressing either the Court or the jury and use the podium when examining witnesses or during opening statements and closing arguments so that the court reporter can accurately transcribe the proceedings. Also, counsel and the parties must stand when the jury enters and exits the courtroom.

II. CONDUCT TOWARD THE JURY

- A. Counsel may not, under any circumstances, communicate with a juror during the pendency of a trial and may do so after the conclusion of the trial only with prior permission from the Court.
- B. The Court will conduct voir dire examination. If counsel has particular, non-routine questions which they would like the Court to ask, those questions should be presented to the Court in writing at the final pre-trial conference.

III. EXAMINATION OF WITNESSES

- A. As previously stated, counsel should not instruct witnesses, but instead request the Court for an instruction.
- B. Counsel should not ask a witness to leave the witness box, but instead request that the Court grant the witness the right to leave the box at the conclusion of the testimony or for demonstrative reasons.
- C. When more than one attorney represents one party, only one attorney may question each witness, and only the questioning attorney may object to opposing counsel's questions of that witness.
- D. Counsel should ask leave to approach a witness with an exhibit the first time, and need not repeat the request for that witness thereafter.
- E. Counsel should not obstruct any juror's view of the witness with their person or an exhibit.
- F. Counsel should be mindful of the court reporter and not speak too quickly or begin a new question prior to a witnesses' completion of the answer to the previous question.
- G. When counsel has completed the examination of a witness, counsel should not address themselves to opposing counsel (i.e., "Your witness"), but instead address themselves to the Court (i.e., "Those are my questions," "I have no further questions," or "Thank you, Mr. Witness").

IV. OBJECTIONS

- A. Counsel should attempt to limit their courtroom objections by motions in limine which should be in writing and filed before trial.
- B. Counsel should stand when making an objection. District rules require counsel to stand whenever addressing the Court.
- C. Counsel should very briefly state the grounds for an objection at the time the objection is made (i.e., "Objection. Argumentive.").
- D. If counsel wishes to argue an objection or make a record, they should not do so in front of the jury, but instead must request a side-bar. All side bars should be kept to a minimum and the Court frowns on requests to have the jury frequently taken from the courtroom. The Court encourages counsel to anticipate evidentiary problems and handle as many objections as possible prior to trial or at the beginning of the morning or afternoon before the jury enters the courtroom.
- E. Once an objection is made, before proceeding to another question, the questioner should either wait for a ruling or ask to withdraw the pending question. The questioner should not respond to the objection unless asked by the Court to do so.

V. EXHIBITS

- A. Pursuant to District rules, always pre-mark your exhibits and exchange them with opposing counsel.
- B. Each item, including pages, in a group exhibit must be marked.
- C. Always show exhibits to opposing counsel before showing them to a witness.
- D. If counsel wishes an exhibit to be published to the jury, they should ask for the Court's permission. If allowed, the Court will instruct the Court Security Officer to pass the exhibits to the jury. Exhibits may not be published before they are admitted into evidence. There should not be questioning of a witness while the exhibit is published.
- E. Disputes over the admissibility of exhibits should be raised outside the presence of the jury, preferably in a motion in limine if possible.

VI. JURY INSTRUCTIONS

- A. Proposed jury instructions must be tendered to the Court at the final pre-trial conference.
- B. Jury instructions should be double-spaced. Multi-page instructions must be stapled, with page numbers. Pattern jury instructions must be used in criminal cases. Non-pattern instructions are discouraged in criminal cases unless necessity compels their usage.
- C. Counsel must furnish the Court with one clean and one annotated copy of each instruction. Paper clip each annotated copy on top of the corresponding clean copy. Number each annotated copy only.

VII. CONDUCT DURING JURY DELIBERATION

- A. Counsel should furnish the Clerk of the Court with a telephone, cellular phone, or pager number where they can be reached when the jury indicates that it has reached a verdict or when the jurors have a question that needs a response from the Court.
- B. Counsel should be able to arrive in the courtroom upon receiving a call within no more than fifteen minutes after being contacted by the Court.
- C. REMEMBER, counsel may not question jurors after a verdict has been reached without prior approval from the Court.

December 23, 1999